

INLAND WETLANDS AND
WATERCOURSES REGULATIONS

TOWN OF WINDHAM,
CONNECTICUT

ADOPTED:
JUNE 23, 1994

EFFECTIVE:
AUGUST 1, 1994

AMENDED
January 8, 2004;
MAY 13, 2004

THESE REGULATIONS REPLACE ALL REGULATIONS PREVIOUSLY ADOPTED AND
AMENDED BY THE INLAND WETLANDS AND WATERCOURSES COMMISSION OF THE
TOWN OF WINDHAM

SECTION 1 TITLE AND AUTHORITY

- 1.1 The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the State have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and the benefits of the State for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the State. It is, therefore, the purpose of these Regulations to protect the citizens of the State by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by Federal, State or local authority; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the State's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the State, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.
- 1.2 These Regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Windham."
- 1.3 The INLAND WETLANDS & WATERCOURSES COMMISSION was designated as the Inland Wetlands and Watercourses Agency in accordance with an ordinance adopted Ordinance 2177 on Oct. 21, 2003. Effective Jan 1, 2004. The Agency was first created by Town Meeting on June 17, 1974. The Regulations were first established by the Agency on June 18, 1974, as required by State Law and subsequently amended on October 19, 1976, August 1, 1994, and on January 8, 2004.
- 1.4 The INLAND WETLANDS & WATERCOURSES COMMISSION has been designated to serve as the Inland Wetland Agency for the Town pursuant to Section 22a-42(c) of the Connecticut General Statutes.
- 1.5 Pursuant to statutory authority, the Regulations adopted by local authority must be in conformity with the Regulations adopted by the Commissioner of Environmental Protection.

- 1.6 These Regulations have been adopted and may be amended from time to time in accordance with provisions of the Inland Wetlands and Watercourses Act
- 1.7 The Agency shall have authority to enforce all provisions of the Inland Wetlands and Watercourses Act and to issue, issue with modifications, or deny permits for all regulated activities on inland wetlands and watercourse in the Town of Windham pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

SECTION 2 DEFINITIONS

- 2.1 As used in these Regulations:

Act means the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45 of the General Statutes, as amended.

Agency means the Inland Wetlands and Watercourses Commission of the Town of Windham.

Bogs are areas distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

Buffer Area means a) any area extending 200 horizontal feet from high water marks of the Willimantic, Natchaug, North Atlantic White Cedar Bog and/or Shetucket Rivers; and/or, b) any area extending one-hundred (100) horizontal feet from other stream(s) edge(s) and/or wetland edge(s).

1. any area within 100 horizontal feet of the boundary of any wetlands and watercourses as identified by a soil scientist;
2. any area within 200 horizontal feet of the Willimantic, Natchaug, North Atlantic White Cedar Bog, Natchaug, and Shetucket Rivers;
3. any area within 150 horizontal feet of the boundary of such wetlands or watercourses from any proposed subsurface waste disposal or drainage system;
4. any area within 200 horizontal feet of the boundary of a vernal body of water or as otherwise amended by State Law.

“Best management practice” – means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls as outlined by the Connecticut Erosion and Sediment Control Guidelines; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses at times when water flows are low and fish and wildlife will have minimal affect.

Clear-cutting means the harvest of timber in a fashion that removes all trees down to a two inch diameter at four (4) feet above natural grade.

Commission means the Inland Wetlands and Watercourses Agency of the Town of Windham.

Commission Member means a member of the Inland Wetlands & Watercourses Commission of the Town of Windham.

Commissioner of Environmental Protection means the Commissioner of the State of Connecticut Department of Environmental Protection.

Continual Flow means a flow of water that persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.

Deposit includes, but shall not be limited to fill, grade, dump, place, discharge or emit.

Designated Agent means an individual(s) designated by the Commission to carry out the functions and purposes of the Commission

Discharge means emission of any water, substance or material into wetlands or watercourses whether or not such substance causes pollution.

Disturb the natural and indigenous character of the land means that the activity will significantly alter the inland wetlands and watercourses by reason of removal of deposition of material, clear-cutting, alteration of obstruction of water flow, or will result in the pollution of the wetland or watercourse.

Essential to the farming operation means that the activity proposed is necessary and indispensable to sustain farming activities.

Farming means use of land for the growing of crops, raising of livestock or other agricultural use.

Feasible means able to be constructed or implemented consistent with sound engineering principles

Hydrology: dealing with the properties, distribution, and circulation of water either above, or below the surface of the land, as well as in the soil, and underlying rocks.

Intermittent watercourse means those waterways that are characterized by non-persistent flow. For purposes of these Regulations, intermittent watercourses are delineated by two or more of the following characteristics.

1. A defined permanent channel with the evidence of scour or deposits of recent alluvium or detritus.
2. The presence of standing or flowing water for a duration longer than a particular storm incident. Ordinarily, the presence of water is supported by a component, however small, of groundwater outflow or ex-filtration.
3. The presence of, or ability to support, the growth of hydrophytic vegetation.

Jurisdictional Ruling – An administrative process that involves submitting a request to the Agency, for approval for any clearing, grubbing, filling, grading, paving, excavating,

construction, deposition, or removal of material as well as for any increase in discharge of storm water on the land within certain upland areas shall be subject to review as a regulated activity. Note: In accordance with CGS 22a-42a (f) If a municipal inland wetlands agency regulates activities within areas around wetlands or watercourses, such regulation shall (1) be in accordance with the provisions of the inland wetlands regulations adopted by such agency related to application for, and approval of, activities to be conducted in wetlands or watercourses and (2) apply only to those activities that are likely to impact or affect wetlands or watercourses.

Marshes are areas with soils that exhibit aquatic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water six (6) inches or more in depth are common.

Material means any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, sand, refuse or waste.

Municipality means the Town of Windham.

Nurseries means land used for propagating trees, shrubs, or other plants for transplanting, sale or for use as stock for grafting.

Permit means the whole or any part of any permit, license, certificate or approval or similar form of permission that may be required of any person by the provisions of these Regulations under the authority of the Inland Wetlands & Watercourses Commission.

Permittee means the person to whom such permit has been issued.

Person means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

Pollution means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the State by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.

“Prudent” means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity, provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.

Regulated Activity means any operation within or use of a wetland, watercourse or buffer/upland area involving removal or deposition of material or any obstruction, construction, alteration or pollution of such wetlands, watercourses and any earth moving, filling, construction or clear-cutting of trees within the buffer/upland area (as the term is defined in these Regulations). Also, any clearing, grubbing, filling, grading, paving, excavating, construction, deposition, or removal of material as well as any increase in discharge of storm water on the land within certain upland areas shall be subject to review as a regulated area. In order to determine whether such activity is likely to have a significant impact on wetlands or watercourses, the Commission reserves the right to review any proposed activity in these areas, and make a

jurisdictional ruling as to whether a permit is required. Note: In accordance with CGS 22a-42a (f) If a municipal inland wetlands agency regulates activities within areas around wetlands or watercourses, such regulation shall (1) be in accordance with the provisions of the inland wetlands regulations adopted by such agency related to application for, and approval of, activities to be conducted in wetlands or watercourses and (2) apply only to those activities that are likely to impact or affect wetlands or watercourses.

Regulated Area means any wetlands, watercourses or buffer/upland areas as defined in these Regulations.

Remove includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear-cut timber, bulldoze, dragline or blast.

Rendering Unclean or Impure means any alteration of the physical, chemical or biological properties of any waters of the State, including, but not limited to, change in odor, color, turbidity or taste.

"Restrictive covenant" - means a formal, written agreement that shall be recorded on the land records, with reference made thereto in any future deeds conveying the subject property, or any portion thereof, wherein the property owner agrees to perpetually preserve, protect, conserve and maintain in a natural, scenic and open condition, all land contained within the conservation area. Natural, scenic and open conditions mean that the land must remain undisturbed. There shall be no construction, excavation, filling or any other activity that is detrimental to drainage, flood control, water conservation, erosion control, soil conservation or preservation of wildlife.

Significant Impact means any activity, including, but not limited to, the following activities that may have a major effect or substantial impact on the area for which an application has been filed or on another part of the inland wetland or water course system.

1. Any activity involving a deposition or removal of material that will or may have a major effect or substantial impact on the regulated area or on another part of the inland wetland or watercourse system; or,
2. Any activity that substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system; or,
3. Any activity that substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife, or other biological life; or to prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space; or to perform other functions; or,
4. Any activity that causes substantial turbidity, siltation or sedimentation in a wetland or watercourse; or,
5. Any activity that causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area; or,

6. Any activity that causes or has the potential to cause any pollution of a wetland or watercourse; or,
7. Any activity that destroys unique wetland or watercourse areas having demonstrable scientific or educational value.

“Upland area” means: any non-wetland or watercourse area in which agency regulation shall be assumed until determined otherwise. While requiring a permit for specified activities within defined upland areas, the Commission shall maintain authority to regulate proposed activities located in any upland areas* if they find that the activities are likely to impact or affect a wetland/or watercourse, and shall require the submission of a request for a jurisdictional ruling from any party wishing to develop an undeveloped property, or parcel of land.

“Vernal body of water” (also known as a vernal pool) means: A watercourse consisting of a confined basin depression that contains a body of standing water, usually drying out for part of the year during warm weather. It can be natural or man-made, and lacks a permanent outlet or any fish population. Further, a vernal pool typically includes one or more of the obligatory species of a wetland habitat as follows: fairy shrimp, spotted salamander, Jefferson salamander, marbled salamander, wood frog or eastern spadefoot toad.

Soil Scientist means an individual duly qualified in accordance with standards set by the Office of Personnel Management (formerly the U.S. Civil Service Commission).

Swamps are areas with soils that exhibit aquatic moisture regimes and are dominated by wetland trees and shrubs.

Submerged Lands means those lands that are inundated by water on a seasonal or more frequent basis.

Town means the Town of Windham.

Waste means sewage or any substance, liquid, gaseous, solid or radioactive, that may pollute or tend to pollute any of the wetlands or watercourses of the Town.

Watercourses means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, that are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to Sections 22a-28 through 22a-35 of the General Statutes, as amended.

Wetlands means land, including submerged land as defined in this Section, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, that consist of any of the soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Soil Conservation Service of the U. S. Department of Agriculture (USDA). Such areas may include filled, graded or excavated sites that possess aquatic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

SECTION 3 INVENTORY OF REGULATED AREAS

- 3.1 The “Soil Survey of Windham County Connecticut” is designated as the Inland Wetlands and Watercourses Map of Windham, Connecticut. The soil survey delineates the general location

and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the Office of the Town Clerk or the Inland and Watercourses Commission. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of watercourses. Such determinations shall be made by field inspection and testing conducted by a soil scientist where soil classifications are required, or where watercourse determinations are required, by any qualified individual(s).

- 3.2 Any property owner who disputes the designation of any part of his or her land as a regulated area on the Inland Wetlands and Watercourses Map, may petition the Commission to change the designation in accordance with Section 14 of these Regulations. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances that support the change. The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with Section 15 of these Regulations may be required of the property owner when the agency requires an accurate delineation of regulated areas.
- 3.3 The Commission or its designated agent(s) shall inventory and maintain current records of all regulated areas within the Town. The Commission may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the Town. Such map amendments are subject to the public hearing process outlined in Section 14 of these Regulations.

SECTION 4 PERMITTED AND NON-REGULATED USES

- 4.1 The following operations and uses are permitted
 1. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation. However, the provisions of this Section shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear-cutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale; The Commission hereby reserves its right to review any activity that may have an effect on wetlands or watercourses, and shall require the submission of a request by the owner/developer to the Commission for any such activity for a jurisdictional ruling.
 1. A residential home (i) for which a building permit has been issued; or, (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to Sub-section (b) of Section 22a-42a of the General Statutes, or as of July 1, 1974, which ever is earlier, and further provided no residential home shall be permitted as of right pursuant to this law/or statute unless the building permit was obtained on or before July 1, 1987;
 2. Boat anchorage or mooring, not to include dredging or dock construction;
 3. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the Town and containing a residence. Such incidental uses may include maintenance of existing structures and landscaping, but shall not include removal or

deposition of substantial amounts of material from or into a wetland or watercourse, or diversion or alteration of a watercourse;

4. Construction and operation, by water companies as defined by Section 16-1 of the General Statutes or by municipal water supply systems as provided for in Chapter 102, of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-409 and 22a-410 of the General Statutes.
6. The maintenance relating to any drainage pipe that existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes or July 1, 1974, which ever is earlier, provided such pipe is on property that is zoned as residential but that does not contain hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.

4.2 The following operations and uses will be permitted as non-regulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetlands or watercourses by (removal or disposition of material) alteration or obstruction of water flow or pollution of the wetland or watercourse:

- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.
- b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing and cross-country skiing where otherwise legally permitted and regulated.

4.2 All activities in wetlands or watercourses involving filling, excavation, dredging, clear-cutting, grading and excavation or any other alteration or use of a wetland or watercourse not specifically permitted by this Section will require a permit from the Commission in accordance with Section 6 of these Regulations.

4.3 To carry out the purposes of this Section, the Commission may require any person proposing to carry out a permitted or non-regulated operation or use of a wetland or watercourse that may disturb the natural and indigenous character of the wetland or watercourses, prior to commencement of such operation or use, to notify the Commission on a form provided by it, and provide the Commission with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or non-regulated use of the wetland or watercourse. The Commission or its designated agent will rule that the proposed operation or use is a permitted or a non-regulated use or operation or that a permit is required. Such ruling will be in writing and will be made no later than the next regularly scheduled meeting of the Commission following the meeting at which the request was received. The designated agent for the Commission may make such ruling on behalf of the Commission at any time.

SECTION 5 ACTIVITIES REGULATED BY THE STATE

- 5.1 In addition to any permit or approval required by the Commission, Act, these Regulations, or the Commissioner of Environmental Protection regulates activities in or affecting wetlands or watercourses subject to the following jurisdiction:
- a. Construction or modification of any dam pursuant to Sections 22a-401 through 22a-409 of the General Statutes, as amended. Any person receiving a dam repair or removal order from the Commissioner of the Department of Environmental Protection under Section 22a-401 of the General Statutes shall not be required to obtain a permit from the municipal wetlands agency for any action necessary to comply with such order pursuant to Public Act 92-162;
 - b. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to Section 22a-342 through 22a-349 of the General Statutes, as amended;
 - c. Diversion of water including withdrawals of surface or ground water in excess of 50,000 gallons per day, or any change in the instantaneous flow of any surface waters of the State where the tributary watershed area above the point of diversion is 100 acres or larger pursuant to Sections 22a-365 through 22a-378 of the General Statutes, as amended;
 - d. Discharges into the waters of the State pursuant to Section 22a-430 of the General Statutes, as amended;
 - e. Discharge of fill or dredged materials into the wetlands and watercourses of the State pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.

SECTION 6 REGULATED ACTIVITIES TO BE LICENSED

- 6.1. No person shall conduct or maintain a regulated activity without first obtaining a jurisdictional ruling or permit for such activity from the Inland Wetlands & Watercourses Commission of the Town of Windham.
- 6.2. The Commission shall regulate any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses; and any earth moving, filling, construction or clear-cutting of trees within the buffer/ upland area; and any other regulated activity.
- 6.3. Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission, or violating any other provision of these Regulations, will be subject to the enforcement proceedings and penalties prescribed in Section 13 of these Regulations and any other remedies as provided by law.
- 6.4. The Commission may require the submission of a request for a jurisdictional ruling for any activity located in an upland area, or for any modification of a site that creates or modifies storm water discharge in order to determine whether such activity is likely to have a significant impact on inland wetlands or watercourses or affect the hydrology thereof.

Note: In accordance with CGS 22a-42a (f) If a municipal inland wetlands agency regulates activities within areas around wetlands or watercourses, such regulation shall (1) be in accordance with the provisions of the inland wetlands regulations adopted by such agency related to application for, and approval of, activities to be conducted in wetlands or watercourses and (2) apply only to those activities that are likely to impact or affect wetlands or watercourses.

SECTION 7 APPLICATION REQUIREMENTS

- 7.1 Any person wishing to undertake, renew or amend a permit to conduct a regulated activity must apply for a permit on a form provided by the Commission. An application shall include an application form and such information and sufficient evidence as prescribed by these Regulations. Application forms may be obtained in the offices of the Inland Wetlands & Watercourses Commission.
- 7.2 In accordance with Section 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, if an application for the development of land is submitted to the Windham Planning Commission, Zoning Commission, or Zoning Board of Appeals, the applicant shall submit a request for a jurisdictional ruling, or an application for an inland wetlands and watercourses permit to the Agent, or Agency in accordance with this section, no later than the day the application is filed with the other agencies of the Town identified above.
- 7.3 All applications must contain such information that is necessary for a fair and informed determination of the issues. Any misrepresentation or deception may be grounds for denial, or revocation.
- 7.4 A prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact by submitting a request for a jurisdictional ruling.
- 7.5 The Commission may require an application to include any or all of the following information in writing or on maps or drawings:
- a. The applicant's name, home and business address, and telephone numbers;
 - b. The owner's name, address and telephone number;
 - c. Applicant's interest in the land and the signature, or written consent, of the owner, where the applicant is not the owner;
 - d. The geographical location of the property that is to be affected by the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s), wetland vegetation and the size of the drainage area for the subject site;
 - e. A copy of the deed;
 - f. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls and/or other management practices and mitigation measures that may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to measures outlined here: (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: preserve, restore, enhance and create productive wetland or watercourse resources;
 - g. Alternatives considered by the applicant and why the proposal to alter wetlands set forth in the application was chosen. These alternatives shall be illustrated on a site plan or drawing. These alternatives shall be diagrammed to the extent they can be illustrated;

- h. A site plan showing existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity that are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;
- i. Names and addresses of adjacent property owners;
- j. A statement that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
- k. Authorization for the commissioners and agents of the Commission to inspect the property, at reasonable times, both before and after a final decision has been issued;
- l. a completed DEP reporting form; the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with section 22a-39-14 of the Regulations of Connecticut State Agencies;
- m. Any other information the Commission deems necessary to the understanding of what the applicant is proposing;
- n. Submission of the appropriate filing fee

7.6 If the proposed activity involves a significant impact as determined by the Commission and defined in Section 2 of these Regulations, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following may be required by the Commission:

- a. Site plans for the proposed use or operation and the property that will be affected that show existing and proposed conditions, wetland and watercourses boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the development including maximum building and clearing areas, in relation to regulated areas and measures proposed to mitigate the potential adverse environmental impacts. drawn by a licensed surveyor, professional engineer or landscaped architect registered in the State of Connecticut or by such other qualified person.

Item Symbols

Wetlands (highlighted in Blue)	North Arrow & Scale
Regulated Areas (Highlighted in Green)	Aquifer Protection
Existing Topography	Soil Symbols
Proposed Topography	Existing Property
Spot Elevations	Proposed Property
Property Owners including open space labels)	Roads & Drives
N/F John & Jane Doe	Buildings
100 year floodplain, Floodway, and Elevations	Utilities
	Vegetation
	Wetland (Non-Woody)
	Contour Lines

Please Note: if the following information cannot be legibly presented on a single site plan, then a plan at a scale of 1 inch equals 100 feet shall be submitted. **The plan** shall identify the geographical location of the property and the limits of inland wetlands, watercourses and all regulated areas within or adjacent to the property boundaries relative to regulated areas. In

addition, it shall identify adjacent lands, adjacent regulated areas, affected upstream and downstream areas, 100 year floodplains (with elevations if available), aquifer protection areas, and soil types. It shall also identify* the following: the existing and proposed property lines, driveways and roads or streets; buildings and associated utilities; topography, and spot elevations; lands protected as open space or by private conservation easements; vegetative covers, and other pertinent features as may be identified by the Agency or its designated agent. Also, a title block indicating the name of the project, the landowner and applicant, the name and signature of the person preparing the plan or map, the date prepared and any subsequent revision dates; a legend of symbols used for each plan or map and scale. The following legend, or symbol key is recommended:

- b. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or modifications to the hydrology or watercourses and the proposed erosion and sedimentation control plan;
- c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Soil Conservation Service (the Commission may require the applicant to have a wetlands delineated in the field by a soil scientist and that the field delineation be incorporated onto the site plan);
- d. Description of the ecological communities and functions, specifically the hydrological functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions (e.g., the recharge area, water-levels, hydro-periods, water quality (i.e., chemical, biological, and thermal) and nutrient cycling of the wetland);
- e. Description of how the applicant will change, diminish, or enhance the ecological communities and functions specifically the hydrological functions of the wetlands or watercourses (e.g. the recharge area, water-levels, hydro-periods, water quality (i.e. *chemical, biological, and thermal) and nutrient cycling of the wetland and watercourses, and the submission of a hydrologic report)involved in the application and each alternative and a description of why each alternative was deemed neither feasible nor prudent;
- f. Analysis of chemical or physical characteristics of any fill material;
- g. Measures which mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions that avoid destruction of wetlands or watercourse functions, recreational uses and natural habitats, that minimize hydrologic effects (i.e., minimizing alteration of upland recharge and wetland water levels, preventing flooding, and offsetting degradation of water quality*), erosion and sedimentation and obstruction of drainage, or that otherwise safeguard water resources. Such mitigation plans should include the best management practices proposed to be implemented as part of the project; identify any further activities associated with, or reasonably related to, the proposed regulated activity that are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses

- 7.7 The applicant is to certify whether:
- a. the owner(s) have/has granted permission to carry out the proposed activity;
 - b. Any portion of the property on which the regulated activity is proposed is located within 500 feet of any boundary of an adjoining municipality;
 - c. Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - d. Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
 - e. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- 7.8 Sufficient copies of all application materials (a minimum of 12 copies) must be submitted to comprise a complete application or as is otherwise directed, in writing, by the Commission.
- 7.9 Any application to extend the expiration date of a previously issued permit or amend an existing permit must be filed with the Commission at least thirty (30) days prior to the expiration date for the permit in accordance with Section 8 of these Regulations. Any application to renew or amend such an existing permit shall contain the information required under this section and/or as otherwise provided:
- a. The application may incorporate by reference the documentation and record of the original application;
 - b. The application must state the reason why the authorized activities were not initiated or completed within the time specified in the permit;
 - c. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or the property for which the permit was issued;
 - d. The Commission may accept an untimely application to extend the expiration date of a permit if the authorized activity is on going and allow the continuation of work beyond the expiration date if in its judgment, the permit is likely to be extended and the public interest or environment will be best served by not interrupting the activity; the application must describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
 - e. Any application to renew a permit shall be granted upon request of the permit holder unless the Agency finds that there has been a substantial change in

circumstances that requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years

- 7.9 A reporting form shall be completed during the application process that provides the Commissioner of the Department of Environmental Protection with information necessary to properly monitor the inventory of State wetlands. The reporting form shall be part of the application and the following information must be provided by the applicant: name of applicant; location and name of the project; project and site description; area of wetlands and/or linear feet of watercourse proposed to be altered.

SECTION 8 APPLICATION PROCEDURES

- 8.1 All applications and requests for a jurisdictional ruling shall be submitted to the Inland Wetlands and Watercourses Agency for the Town of Windham. Applicants are directed to confer with the Planning Department regarding filing instructions for the proposed activity.
- 8.2 In the case of any application where any portion of the wetland or watercourse on which the regulated activity is proposed is located within 500 feet of the boundary of an abutting town, the applicant must give written notice of the proposed activity, certified mail return receipt requested, to the adjacent municipal wetlands agency on the same day of filing an inland wetland permit application with the Windham Inland Wetland and Watercourses Commission. Documentation of such notice must be provided to the Commission in accordance with Section 22a-42c of the General Statutes.
- 8.3 The Commission will, in accordance with Connecticut General Statutes Section 22a-42b, notify the clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:
- a. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
 - b. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - c. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or,
 - d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Notice of the pendency of such application will be made by certified mail, return receipt requested and will be mailed within seven (7) days of the date of receipt of the application.

- 8.4 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 16-1 of the General Statutes, the applicant will provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of the watershed in the land records of the municipality in which the application is made and with the Inland Wetlands Agency of such municipality. Such notice must be made by certified mail, return receipt requested, and must be mailed within seven (7) days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice must be provided to the agency.
- 8.5 The date of receipt of any application shall be the day of the next regularly scheduled meeting of the Commission immediately following the day of submission or thirty-five (35) days after such submission, whichever is sooner.
- 8.6 At any time during the review period, the Commission may require the applicant to provide additional information about the regulated area or regulated activity which is the subject of the application, or the wetlands or watercourses affected by the regulated activity. Requests for additional information shall not stay the time limitations as set forth in Sub-section 11.2 of these Regulations.
- 8.7 All applications shall be open for public inspection.
- 8.8 Where the Commission finds that an application is incomplete, an incomplete application is sufficient grounds to deny the application.

SECTION 9 PUBLIC HEARINGS

- 9.1 The Agency shall not hold a public hearing on an application unless the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses; or a petition is presented to the Agency signed by at least twenty-five persons who are eighteen years of age or older (and as specifically outlined by State Law) requesting a hearing is filed with the Agency not later than FOURTEEN days after the date of receipt of such application, or the Agency finds that a public hearing regarding such application would be in the public interest. The Commission may issue a permit without a public hearing provided no petition is filed with the agency ON OR BEFORE THE FOURTEENTH DAY after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any public hearing.
- 9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.

- 9.3 The Commission may require the applicant to notify certain parties of interest who may be affected by the proposed activity.
- 9.4 In the case of any application that is subject to the notification provisions of Sub-section 8.3 of these Regulations, a public hearing will not be conducted until the clerk of the adjoining municipalit(ies) has received notice of the pendency of the application.

SECTION 10 CONSIDERATIONS FOR DECISION

- 10.1 The Commission may consider the following in its decision on an application:
- a. The application and its supporting documentation, evidence and testimony;
 - b. Public comments, evidence, documents and testimony;
 - c. Reports from other agencies, boards or commissions as may be useful and necessary, including but not limited to the Town of Windham:
 1. Conservation Commission.
 2. Planning, Zoning or Planning and Zoning Commission.
 3. Building Official.
 4. Health Officer.
 - d. The Commission may also consider comments on any application from the Windham County Soil and Water Conservation District, the Windham Regional Planning Agency or other regional organizations, agencies in adjacent municipalities that may be affected by the proposed activity, or other technical agencies or organizations that may undertake additional studies or investigations.
 - e. Non-receipt of comments from agencies and commissions listed in Sub-section 10.1.c and d above within the prescribed time shall neither delay nor prejudice the decision of the Commission.
 - f. The Commission may consider the proposed activity, and its acquaintance with, observations of and general knowledge of the area in which the property is located, in its review of the property as a suitable location therefore.
- 10.2 Criteria for Decision. In carrying out the purposes and policies of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Agency shall take into consideration all relevant facts and circumstances, including but not limited to:
- a. the environmental impact of the proposed regulated activity on wetlands or watercourses;
 - b. the applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity for which the alternatives would cause less or no

- c. environmental impact to wetlands or watercourses;
- c. the relationship between the short term and long term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
- d. irreversible and irretrievable loss of wetland or watercourse resources that would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures that may be considered as a condition of issuing a permit for such activity including, but not limited to, measures outlined here: (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: preserve, restore, enhance and create productive wetland or watercourse resources;
- e. the character and degree of injury to a regulated area, or interference with the safety, health or the reasonable use of property that is caused or threatened by the proposed regulated activity; and
- f. impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity that are made inevitable by the proposed regulated activity and that may have an impact on wetlands or watercourses.

10.3 In the case of any application for which a public hearing was held, and pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit will not be issued unless the Commission finds that, on the basis of the record, that the proposed alterations or destruction of wetlands or watercourses is unavoidable and that a feasible and prudent alternative to the alteration or destruction of wetlands and watercourses does not exist. In making this finding, the Commission will consider the relevant facts and circumstances set forth in Section 10 of these Regulations. This finding and the reasons therefore will be stated in the record of the decision by the Commission.

10.4 In the case of an application that is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity that have less adverse impact on wetlands or watercourses, the Commission shall propose on the record in writing the types of alternatives that the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.

SECTION 11 DECISION PROCESS AND PERMIT

- 11.1 The Commission or its duly authorized agent acting pursuant to Section 12 of these regulations, may in accordance with Section 10 of these regulations, grant the application as filed, grant it upon such terms, conditions, limitations or modifications necessary to carry out the purposes of the Act, or deny it. Such terms may include any reasonable measures that would mitigate the impacts of the regulated activity and that would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, and/or (c) in the following order of priority: preserve, restore, enhance and create productive wetland or watercourse resources.
- 11.2 The Commission may hold a public hearing on such application no later than sixty-five (65) days after receipt of such application. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within sixty-five (65) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this Sub-section for the holding of the hearing and for action on such application, provided the total extension of any such period shall not be for longer than the original period as specified in this Sub-section, or may withdraw such application. The failure of the Commission to act within any time period specified in this Sub-section, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Commission must either be withdrawn by the applicant or denied by the Commission.

Inland Wetlands & Watercourses timeframes

Item	Applications Affected	Requirements *
1. Official receipt of application	All applications	Day of IWA’s next regularly scheduled meeting, or 35 days after application submitted, whichever is sooner
2. Rendering decision—no public hearing held	All applications for which no hearing was held	Within 65 days after official receipt
3. Commence public hearing	a. All applications	a. Start hearing within 65 days
4. Complete public hearing	a. All applications	a. Start and finish hearing within 35days
5. Rendering decision	a. All applications	Within 65 days after hearing closes

*Note: the applicant can consent to extend time frame for any of the steps, but the total of all extensions together cannot exceed 65 days.

- 11.3 The Commission will state upon its record the reasons and bases for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such

hearing and shall be in writing and shall, as applicable and in accordance with section 10 of these regulations, incorporate a statement relative to the consideration of feasible and prudent alternatives .

- 11.4 The Commission will notify the applicant of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Commission will cause notice of its decision published in a newspaper having general circulation in the town. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.
- 11.5 If an activity authorized by an inland wetland permit also involves an activity that requires a zoning or subdivision approval, special zoning permit, or variance or special exception, under sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, the Agency shall file a copy of the decision and report on the application with the Town of Windham Planning, Zoning, or Planning and Zoning Commission, or Zoning Board of Appeals as applicable, within fifteen days of the date of the decision thereon.
- 11.6 Any permit issued by the Agency for the development of land for which an approval is required under section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two years and not more than five years.
- 11.7 No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency
- 11.8 If a bond or insurance is required in accordance with Section 12 of these Regulations, the Commission may withhold issuing a permit until such bond or insurance is provided.
- 11.9 General provisions in the issuance of all permits:
 - a. The agency may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Commission will issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct that warrants the intended action. The Commission will hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee will be notified of the Commissions decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Commission will publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.

- b. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission or the Town of Windham, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the property or activity.
- c. If the activity authorized by the inland wetlands permit also involves an activity or a project that requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the wetland permit may begin until such approval is obtained.
- d. The permittee shall take such necessary steps consistent with the terms and conditions of the permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
- e. Permits are not transferable where the surety or the performance conditions are threatened or any other matter of compliance is in jeopardy of not being satisfied as required by the original permit.
- f. The issuance of a permit by the Commission to any person shall give the Commission and its agent permission to access, inspect and study the activities, facilities and/or conditions at any reasonable time where there is no substantial or imminent threat to persons or the wetlands or watercourses, but at any time in the case where there is such a substantial or imminent threat as determined by the Commission and/or its agent.

SECTION 12 Action by Duly Authorized Agent

- 12.1 The Agency may delegate to its duly authorized agent the authority to grant provisional approval or extend an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater **than** a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under Section 7 of these regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8, 9 and 11 of these regulations, such agent may approve or extend such an activity at any time. The Agent shall report any approvals granted to the Agency at its next scheduled meeting.
- 12.2 Within ten days of the date of such approval, the applicant or person receiving such approval shall publish notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect at the applicant's sole expense. Any aggrieved party may appeal such decision of such agent to the Agency within fifteen days after the date of publication of the notice of decision, and the Agency

shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these regulations.

Section 13 BOND AND INSURANCE

13.1 Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Commission, be required to file a bond for the performance of all work authorized with such surety in such amount and in a form approved by the Commission.

13.2 The bond or surety will be conditioned on compliance with all provisions of these Regulations and the terms, conditions and limitations established in the permit.

SECTION 14 ENFORCEMENT

14.1 The Commission may appoint an agent or agents to act in its behalf with the authority to inspect property except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these Regulations. In carrying out the purposes of this section, the Agency or its duly authorized agent shall take into consideration the criteria for decision under section 10 of these regulations

14.2 The Commission or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these Regulations.

14.3 If the Commission or its agent finds that any person is conducting or maintaining any activity, facility or condition that is in violation of the Act or these Regulations, the Commission or its duly authorized agent may:

- a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such activity or to correct such facility or condition within a specific time. Within ten (10) days of the issuance of such order, the Commission shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Commission shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Commission or its agent affirms, revises or withdraws the order. The issuance of an order pursuant to the Sub-section shall not delay or bar an action pursuant to Section 22a-44(b) of the General Statutes, as amended.

- b. Suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Commission will issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct that warrants the intended action. The Commission will hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee will be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Commission will publish notice of the suspension or revocation in a newspaper having general circulation in the municipality. In any case in which such notice is not published within such fifteen-day period, the applicant may provide for the publication of such notice within ten days thereafter.

- c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands, watercourses or buffer areas. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in the notice of violation may result in issuance of the order provided in Sub-section 13.3a or other enforcement proceedings as provided by law.

- d. In ordering any person, including the owner, to correct a facility or condition within a specific time, the Commission or its agent, in addition to ordering such person to cease any and all activities, may order such person to take measures within time schedules the Commission or the agent in its discretion may consider to be appropriate. Such orders may include the following:
 - i. Ordering the person to take immediate action, at the person's sole cost and expense, to stabilize areas to address actual or threatened erosion, pollution, or damage to wetlands or watercourses;
 - ii. Ordering the person to allow any Commission member and/or any agent of the Commission or the Town of Windham to enter the premises and inspect and study the area affected by the activity, condition or facility, at such time as the Commission or its agent may deem appropriate (this provision shall in no way limit the authority of the Commission and/or its agents, or any agent of the Town of Windham under any other statute, regulation, law or rights of access or inspection);
 - iii. Ordering the person to prepare, at the person's sole cost and expense, a plan for stabilizing, correcting and/or restoring a facility or condition to a condition as the Commission or its agent deems appropriate, and submit it to the

Commission and/or its agent for review and approval. The Commission and/or its agent may require that the plan be prepared by a licensed and/or professional engineer or consultant, and the order may specify what particular matters and concerns must be addressed in the plan. In reviewing the plan, the Commission and/or its agent may order the person to supplement the plan with information and further analysis, within a time period the Commission or its agent establishes;

- iv. Ordering the person to prepare any plan within a specified period of time;
- v. Requiring, as part of the original order or any follow-up order, the person to comply with all the provisions of any plan as approved by the Commission or its agent, and in such time schedule as approved by the Commission or its agent; and/or,
- vi. Ordering the person to restore any condition or facility to such condition as the Commission or its agent deems appropriate, within such time as the Commission or its agent determines.

Any person who fails to comply with any requirement of an order, or any of these Regulations, shall be in violation of these Regulations and/or the Act and subject to the penalties therein.

- 14.4 The Commission may require the petitioner to present documentation by a soil scientist that the land in question does not have a soil type classified by the National Cooperative Soils Survey as poorly drained, very poorly drained, alluvial, or flood plain. The Commission may require such documentation to include a map of the land in question signed by a soil scientist on which the flag locations defining the boundaries of the regulated soil types are depicted.

SECTION 15 AMENDMENTS

- 15.1 These Regulations and the Inland Wetlands and Watercourses Map for the Town of Windham may be amended, from time to time, by the Commission in accordance with Section 22a-42a of the Connecticut General Statutes as amended. The Commission will provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments pursuant to Sub-section 14.3 of this Section, at least thirty-five (35) days before the public hearing on their adoption.
- 15.2 An application filed with the Commission that is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or

after the date of such receipt. The provisions of this Section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses; or, (2) to any change in regulations necessary to make such regulations consistent with the provisions of Chapter 440 of the General Statutes as of the date of such receipt.

- 15.3 Petitions requesting changes or amendments to the “Inland Wetlands and Watercourses Map, Connecticut” must contain at least the following information:
- a. The applicant’s name, address and telephone numbers of the owner(s) of such land and owner(s) agent or other representative;
 - b. The geographic location of the property involved in the petition including documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and a description of the land in sufficient detail to allow identification of the disputed wetland or watercourse areas;
 - c. The reasons for the requested action;
 - d. The names and addresses of adjacent property owners; and,
 - e. A map showing proposed development of the property land in relation to existing and proposed wetland and watercourse boundaries.
- 15.4 Wetlands and watercourses must be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- 15.5 A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the hearing will be published in a newspaper having general circulation in the municipality at least twice at intervals of not less than two days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two days, before such hearing. A copy of such proposed boundary change will be filed in the Office of the Town Clerk for public inspection at least ten (10) days before such hearing.
- 15.6 Within sixty-five (65) days after receipt of a petition for a change in the mapped boundaries of any wetland or watercourse, the Commission will hold a public hearing to consider the petition. The Commission will act upon the changes requested in such petition within sixty-five (65) days after the close of the hearing. The petitioner may consent to one or more extensions of the periods specified in this Sub-section for the holding of the hearing and for action on such petition, provided the total extension of any such period shall not be for longer than the original period as specified in this Sub-section, or may withdraw such petition. The failure of the Commission to act within any time period specified in this Sub-section, or any extension thereof, shall not be deemed to constitute approval of the petition.

15.7 The Commission will make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made.

SECTION 16 APPEALS

16.1 Appeal of actions of the Commission shall be made in accordance with the provisions of Section 22a-43 of the General Statutes.

SECTION 17 CONFLICT AND SEVERANCE

17.1 If there is a conflict between the provisions of these Regulations, the provisions of these Regulations, the provision that imposes the most stringent standards for the use of wetlands and watercourses will govern as determined by the Commission. The invalidity of any word, clause, sentence, section, part, sub-section, subdivision or provision of these Regulations shall not affect the validity of any other part that can be given effect without such valid part or parts.

17.2 If there is a conflict between any provision of these Regulations and the provisions of the Connecticut General Statutes, the provisions of the Connecticut General Statutes shall govern.

SECTION 18 OTHER PERMITS

18.1 Nothing in these Regulations will obviate the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of Windham, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U. S. Army Corps of Engineers. Obtaining such assents, permits or license is the sole responsibility of the applicant.

SECTION 19 APPLICATION FEES

19.1 Method of Payment: All fees required by the Town must be submitted to the Commission or its agent at the time the application is filed with the Commission or its agent.

19.2 No application will be granted or approved by the Commission unless the correct application fee is paid in full or unless a waiver has been granted.

SECTION 20 EFFECTIVE DATE OF REGULATIONS

20.1 These Regulations including the Inland Wetlands and Watercourses Map, and amendments thereto, will become effective upon filing in the Office of the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the Town of Windham.